

REMARKS

In the Office Action, the Examiner rejected claims 1, 2, 4-8, 10-36 and 61-77 under 35 USC §103(a). In addition, the Examiner withdrew claims 78-90 from consideration.

Claims 16, 17, 21-23, 30 and 61 have been amended to further clarify the subject matter regarded as the invention. Claims 1-15, 69 and 78-90 have been cancelled without prejudice or disclaimer. In addition, new claims 91-107 have been added to the application. Claims 16-36, 61-68, 70-77 and 91-107 are pending in the application.

Reconsideration of the application is respectfully requested based on the following remarks.

PATENTABILITY OF CLAIMS 16-36, 61-68 AND 70-77

In the Office Action, the Examiner rejected claims 1, 2, 4-8 and 10 under 35 U.S.C. § 103(a) as unpatentable over Breen, Jr. et al., U.S. Patent No. 6,598,027, in view of Tracy et al., U.S. Patent No. 5,979,757; rejected claims 16, 17, 21, 23, 24, 27, 28, 30, 31, 35, 61-63, 67, 69-72 and 73-77 under 35 U.S.C. § 103(a) as unpatentable over Breen, Jr. et al. in view of Knowles et al., U.S. Patent Publication 2003/0079227 A1; rejected claims 18-20, 22, 25-27, 29, 32-34, 36, 64-66 and 68 under 35 U.S.C. § 103(a) as unpatentable over Breen, Jr. et al. in view of Knowles et al. and further in view of Tracy et al. These rejections are fully traversed below.

Claim 16 pertains to a computer-implemented method for implementing electronic commerce transactions via a data network. The method generally operates to identify a regulated item selected by a customer and then take action to prevent the purchase of the regulated item.

More particularly, claim 16 recites:

wherein said taking action is automatically implemented at a server system configured to implement electronic commerce transactions between an on-line merchant and the customer, the regulated item being part of an on-line order from the customer with the on-line merchant, the on-line order also having information from the customer regarding a delivery time; and

wherein said taking action comprises modifying a display of items available for purchase by the customer, wherein the display modification includes restricting display of items which are restricted by the one or more

regulations from being purchased by the customer based upon the one or more predetermined criteria and the delivery time.

Claim 16, lines 9-16.

Breen, Jr. et al. describes a system and method for conducting commercial transactions, namely, online bidding, for regulated goods via a computer network. Knowles et al. describes an interactive program guide for television programming.

In the Office Action, the Examiner admits that Breen, Jr. et al. fails to disclose the modification of a display of items available for purchase by a customer by restricting display of items which are prohibited from being purchased by the customer. To overcome the admitted deficiency of Breen, Jr. et al., the Examiner relies on Knowles et al. First, we note that Knowles et al. pertains to an interactive program guide system for use with television programming. In providing parental control features, the interactive program guide system can block a show from being available for viewing.

An interactive program guide for television as disclosed in Knowles et al. is in a substantially different field of endeavor than is the online bidding systems of Breen, Jr. et al. Second, the problems being solved in Breen, Jr. et al. and Knowles et al. are completely different. Accordingly, it is submitted that one skilled in the art would not be motivated to combine these references as proposed by the Examiner.

Still further, even if Breen, Jr. et al. and Knowles et al. were properly combinable, claim 16 is nevertheless patentably distinct from these references. Among other things, the method of claim 16 operates to identify a regulated item selected by a customer, where the regulated item is part of an on-line order from the customer with the on-line merchant. Moreover, the on-line order also has information from the customer regarding a delivery time. Neither Breen, Jr. et al. nor Knowles et al. teaches or suggests an on-line order for at least one regulated item where the customer provides information regarding a delivery time. In addition, neither Breen, Jr. et al. nor Knowles et al. teach or suggest restricting display of items which are restricted by the one or more regulations from being purchased by the customer based upon the one or more criteria and the delivery time. While Knowles et al. is able to block viewing of a show, Knowles et al. does not restrict display of items being purchased by customers due to regulations based on one or more criteria and the delivery

time. Any blocking of viewing of a show is done by user (e.g., parent) selections with regard to parental control.

Therefore, it is submitted that claim 16 is patentably distinct from Breen, Jr. et al. in combination with Knowles et al. Other independent claims 23, 30 and 61¹ take actions to restrict or inhibit purchase or display of regulated items in electronic commerce transactions. Hence, for somewhat similar reasons, it is submitted that claims 23, 30 and 61 are also patentably distinct from Breen, Jr. et al. in combination with Knowles et al. Also, as to claim 23, there is no teaching or suggestion to prevent adding a regulated item to a shopping cart.

In rejecting certain dependent claims, the combination of Breen, Jr. et al. and Knowles et al. and Tracy et al. was utilized. Tracy et al. pertains to a portable shopping system. The portable shopping system uses a portable terminal that includes a machine code reader (e.g., bar code reader) and a central computer. At col. 13, line 57 to col. 14, line 2 of Tracy et al., it is discussed that the central computer can inform a customer [of a self-scan system] that a selected item is a restricted item and cannot be purchased by the customer at that time. "For instance, in some states alcoholic beverages may not be sold on Sundays. Thus, if a consumer scans the product for purchase, the portable terminal will display a message or play an audible message conveying the prohibition." Tracy et al., col. 13, lines 60-64. Though Tracy et al. seems to be able to inform a potential customer that purchase of an item is restricted, Tracy et al. is unable to overcome the deficiencies of Breen, Jr. et al. and Knowles et al.

Accordingly, it is submitted that the independent claims 1, 16, 23, 30 and 61 are patentably distinct from any combination of Breen, Jr. et al., Knowles et al. and/or Tracy et al. In addition, it is submitted that dependent claims 17-22, 24-29, 31-36 and 62-68 and 70-77 are also patentably distinct for at least the same reasons. Additional limitations recited in the independent claims or the dependent claims are not further discussed as the above-discussed limitations are clearly sufficient to distinguish the claimed invention from Breen, Jr. et al., Knowles et al. and/or Tracy et al. Thus, it is respectfully requested that the Examiner withdraw the rejections under 35 USC § 103(a).

¹ Note that in claim 61 the display modification includes restricting display of items which are restricted by the one or more regulations from being purchased by the customer based on one or more predetermined criteria (and not necessarily being also based on delivery time.


SUMMARY

It is submitted that the rejections of the claims have been traversed. Therefore, it is submitted that claims 16-36, 61-68, 70-77 and 91-107 are in condition for allowance. Reconsideration of the application and an early Notice of Allowance are earnestly solicited.

If there are any issues remaining which the Examiner believes could be resolved through either a Supplemental Response or an Examiner's Amendment, the Examiner is respectfully requested to contact the undersigned representative at the telephone number listed below.

Applicants hereby petition for an extension of time which may be required to maintain the pendency of this case, and any required fee for such extension or any further fee required in connection with the filing of this Amendment is to be charged to Deposit Account No. 50-0388.

Respectfully submitted,



C. Douglass Thomas

Reg. No. 32,947

(650) 903-9200